

On the other hand, *Macpherson on Infants*, after an examination of the same cases, and perhaps of some others, arrives at a different result, and concludes that it is now established, that the real estate of a female infant is not bound, so far as she is concerned, by a settlement on her marriage; because the general incapacity of infancy invalidates the contract, and the contract of the husband cannot extend beyond the limited interest which he acquires by the marriage.

There would seem to be no doubt of the power of a female infant to bar herself, by her contract before marriage, of her right of dower in her husband's lands, and of her distributive share of his personal estate. The decree of Lord Nottingham to the contrary, in *Drury vs. Drury*, 1 *Eden's Rep.*, 39, was reversed in the House of Lords, and this reversal is considered by Chancellor Kent as finally settling the question. The case of *Drury vs. Drury* turned upon the statute of 27, Henry 8, introducing jointures, which Lord Nottingham supposed extended only to adult women, and this was the point of difference between him and the House of Lords.

This question came before the Chancery Court of New York, in the case of *McCartee vs. Teller*, 2 *Paige*, 511, and after a very learned and elaborate discussion at the bar, it was decided that by analogy to the statute, (which made a legal jointure settled upon an infant before marriage a bar of her dower,) a competent and certain equitable provision settled upon her in lieu of dower, to take effect immediately upon the death of the husband, and to continue during the life of the widow, and being a reasonable and competent livelihood for the wife, under the circumstances, was also a bar. There would seem to be as little doubt of the power of a female infant to bind, by a settlement before marriage, her *general personal* estate, because such personal estate becomes by marriage the property of the husband, and the settlement is in effect his settlement and not hers. This general principle of the courts of equity may, and probably would, be considered modified by the act of our legislature of 1842, ch. 293, with reference to the particular description of property mentioned in the act.